

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

ADDONES SPENCER
Reg # 11060-027

PETITIONER

VS.

NO. 2:13CV00059-SWW-BD

C.V. RIVERA,¹ Warden,
Federal Correctional Complex,
Forrest City, Arkansas

RESPONDENT

RECOMMENDED DISPOSITION

I. Procedure for Filing Objections

This Recommended Disposition (“Recommendation”) has been sent to United States District Judge Susan Webber Wright. Any party may file written objections within fourteen (14) days of the date of the Recommendation. If objections are filed, they must be specific and must include the factual or legal basis for the objection.

If no objections are filed, Judge Wright can adopt this Recommendation without independently reviewing the record. By not objecting, you may also waive any right to appeal questions of fact.

¹C.V. Rivera has been named Warden of the Federal Correctional Complex, Forrest City, Arkansas and is hereby substituted as the respondent in this case. The Clerk is instructed to correct the docket sheet.

II. Discussion

Addones Spencer originally filed this case as a petition for writ of habeas corpus. His claims, however, were essentially conditions-of-confinement claims and, thus, could not be addressed in a habeas corpus action. On February 11, 2015, the Court gave Mr. Spencer until March 13, 2015, to notify the Court if he wished to pursue his claims in a conditions-of-confinement case under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, 91 S.Ct. 1999 (1971). (Docket entry #34)

Mr. Spencer requested additional time. The Court granted his request and ordered him to notify the Court by May 1, 2015. (#37)

To date, Mr. Spencer has not indicated a desire to sue the Defendants under *Bivens*, and the time for notifying the Court of his intentions has passed. Mr. Spencer was warned that failure to notify the Court that he wanted to pursue civil rights claims would lead to a recommendation that his case be dismissed. (#37)

Because Mr. Spencer has not notified the Court that he wishes to pursue conditions-of-confinement claims, the Court recommends that Addonnes Spencer's case be dismissed, without prejudice.

DATED this 15th day of May, 2015.


UNITED STATES MAGISTRATE JUDGE